

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 8, 2011 has been entered.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Donna R. Fugit on September 22, 2011.

The application has been amended as follows:

In the claims:

Claim 21, delete the current version and replace it with the following:

11. A cosmetic and/or pharmaceutical composition comprising: a fatty acid ester mixture of pentaerythritol, wherein the fatty acid has 6 to 22 carbon atoms, the esters have a ratio by weight of C16/C18 fatty acid of about 0.7 to 0.9, and wherein said ester mixture contains less than 0.3% by weight of esters containing C17 fatty acid acyl

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groups, and has a melting point of at least 30 °C, with a percentage content of (a) about 12% to about 19% by weight monoesters, (b) about 25% to about 35% by weight diesters, (c) about 30% to about 40% by weight triesters, and (d) tetraesters.

Claim 14, line, delete "cosmetic".

Claim 15, line, delete "cosmetic".

Claim 16, line, delete "cosmetic".

Claim 17, line, delete "cosmetic".

Claim 18, line, delete "cosmetic".

Claim 19, line, delete "cosmetic".

Claim 20, line, delete "cosmetic".

Allowable Subject Matter

3. Claims 3, 5, 11, 13 – 21, 23 and 24 are allowed.

4. The following is an examiner's statement of reasons for allowance: none of the prior art references of record teach or suggest a fatty acid ester mixture of pentaerythritol, wherein the fatty acid has 6 to 22 carbon atoms, the esters have a ratio by weight of C16/C18 fatty acid of about 0.7 to 0.9, and wherein said ester mixture contains less than 0.3% by weight of esters containing C17 fatty acid acyl groups, and has a melting point of at least 30 °C, with a percentage content of (a) about 12% to about 19% by weight monoesters, (b) about 25% to about 35% by weight diesters, (c) about 30% to about 40% by weight triesters, and (d) tetraesters. Also, the claimed fatty acid ester mixture, when included in a cosmetic and/or pharmaceutical composition, has improved sensory properties and phase stability.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to YATE' K. CUTLIFF whose telephone number is (571)272-9067. The examiner can normally be reached on M-TH 8:30 a.m. - 5:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew D. Kosar can be reached on (571) 272 -0913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YATE' K. CUTLIFF
Examiner, Art Unit 1622
/Andrew D Kosar/
Supervisory Patent Examiner, Art Unit 1622